

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALEJANDRO RODRIGUEZ,

Plaintiff,

v.

NORMAN GOODENOUGH, PAT
GLEBE, M. FISHER, B. BRAID,

Defendants.

No. C14-1167 RJB-KLS

REPORT AND RECOMMENDATION

Noted For: June 5, 2015

Pro Se Plaintiff Alejandro Rodriguez has failed to keep the Court apprised of his current address. It has been more than sixty days since the Court's mailing to Mr. Rodriguez was returned and the Court does not have a current address for him. Therefore, the undersigned recommends that the Court dismiss this action as Mr. Rodriguez appears to have abandoned his case.

DISCUSSION

Mr. Rodriguez filed this 42 U.S.C. § 1983 civil rights complaint in August of 2014, alleging that he was denied prescription eyeglasses at state expense while he was a prisoner. At the time he filed his complaint, Mr. Rodriguez was incarcerated at the Stafford Creek Corrections Center (SCCC). Dkt. 1. He was granted leave to proceed *in forma pauperis* and his complaint was served on Defendants. Dkts. 11-22. On October 16, 2014, Mr. Rodriguez filed a

1 Notice of Change of Address, notifying the Court of his new address: 1110 18th Avenue East
2 #11, Seattle, WA 98112. Dkt. 15. On December 8, 2014, Defendants filed a motion for
3 summary judgment. Dkt. 24. The motion was noted for consideration on January 2, 2015. *Id.*

4 On March 6, 2015, the Court ordered Defendants to provide additional briefing on their
5 summary judgment motion. Dkt. 26. A copy of that Order was mailed to Mr. Rodriguez at the
6 Seattle address that he provided to the Court in October 2014. That mailing was returned to the
7 Court as undeliverable, marked "Attempted – not known/unable to forward." Dkt. 27. On
8 March 26, 2015, Defendants filed their Response to the Court's Order for Additional Briefing.
9 Dkt. 28. Defendants' certificate of service indicates that a copy of their Response was also
10 mailed to Mr. Rodriguez at the Seattle address he provided to the Court in October 2014. Dkt.
11 28, at 4. It is not known whether Defendants' mailing was also returned as undeliverable.
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13 Rule 41(b)(2) of the Local Rules provides:
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15 A party proceeding pro se shall keep the court and opposing parties advised as to his or
16 her current mailing address and, if electronically filing or receiving notices electronically,
17 his or her current email address. If mail directed to a pro se plaintiff by the clerk is
18 returned by the Postal Service, or if email is returned by the internet service provider, and
19 if such plaintiff fails to notify the court and opposing parties within 60 days thereafter of
20 his or her current mailing or email address, the court may dismiss the action without
21 prejudice for failure to prosecute.

22 CR 41(b)(2), Local Rules W.D. Wash.

23 CONCLUSION

24 This action has existed more than sixty days without a current address for Mr. Rodriguez.
25 The record reflects that Mr. Rodriguez did not receive the Court's Order directing Defendants to
26 file additional briefing in support of their motion for summary judgment and there is no
indication that Mr. Rodriguez in fact received Defendants' additional briefing. Therefore, it is
recommended that the Court not reach the merits of Defendants' motion for summary judgment,

REPORT AND RECOMMENDATION - 2

1 but that it dismiss this action without prejudice for failure to prosecute pursuant to Local Rule
2 41(b)(2). Defendants' motion for summary judgment (Dkt. 24) should be denied as moot.

3 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
4 Procedure, the parties shall have fourteen (14) days from service of this Report to file written
5 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
6 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the
7 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on
8 **June 5, 2015**, as noted in the caption.
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10 **DATED** this 18th day of May, 2015.
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14 Karen L. Strombom
15 United States Magistrate Judge
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